

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

DONALD D. REINOEHL, individually,

Plaintiff,

v

A C AND S, INC., a corporation; A P. GREEN INDUSTRIES, a corporation; C E THURSTON AND SONS, INC., a corporation; COMBUSTION ENGINEERING, INC., a corporation; CSR, LTD., a corporation; DANA CORP., a corporation; DRESSER INDUSTRIES, a corporation; ELI LILLY AND CO., EMPIRE ACE INSULATION MFG CORP., a corporation; ERICSSON, INC., as successor to ANACONDA STEEL & WIRE CO., a corporation; FERODO AMERICA, INC., a corporation; FOSTER WHEELER CORPORATION, as Parent Corporation to FOSTER WHEELER ENERGY CORPORATION, a corporation; FOSTER-WHEELER ENERGY CORP., a corporation; THE HINTKOTE COMPANY, a corporation; GAF CORPORATION, a corporation; GARLOCK, INC., a corporation; GENERAL ELECTRIC COMPANY, a corporation; GENERAL REFRACTORIES COMPANY, a corporation; GEORGIA-PACIFIC CORPORATION, a corporation; HARBISON WALKER REFRACTORIES, a corporation; I.U. NORTH AMERICA, INC., a corporation; INDUSTRIAL HOLDINGS CO., a corporation, (fka CARBORUNDUM CO.). MARATHON OIL CO., MAREMONT CORP., a corporation; METROPOLITAN LIFE INSURANCE COMPANY, a corporation; NATIONAL SERVICES INDUSTRIES, INC., a corporation; NORTH AMERICAN REFRACTORIES COMPANY, a corporation; NOSROC CORP., a corporation; OWENS-ILLINOIS CORP., a corporation; PFIZER, INC., a corporation; QUIGLEY CO., INC., a corporation; RAPID AMERICAN CORP., a corporation; RHONE-POULENC AG, CO., a corporation; SHOOK & FLETCHER INSULATION CO., a corporation; T&N, LTD t/k/a T & N PLC, a corporation; TEXACO, INC.; UNION CARBIDE CHEMICALS AND PLASTICS CO., INC., a corporation; UNITED STATES MINERAL PRODUCTS CO., a corporation; W R GRACE CO., a corporation, and VIACOM, INC. a successor to WESTINGHOUSE ELECTRIC CORP., a corporation

Defendants.

COMPLAINT

Now comes the plaintiff, Donald D. Reinoehl (hereinafter "Plaintiff"), by and through his attorneys, CASCINO VAUGHAN LAW OFFICES, LTD., and complains of defendants, as follows:

JURISDICTION

I Plaintiff, Donald D. Reinoehl, is an adult citizen of Illinois. Plaintiff's address is 601 W Franklin, Palestine, Illinois 62451. [REDACTED]. Plaintiff allegedly worked

CASE NO

01-4029-GPM

In Re Asbestos Litigation

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FILED Rb  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS  
PEORIA EAST ST. LOUIS DIVISION  
In Re Asbestos Litigation

with asbestos at various job sites in the state of Illinois during his career as a Laborer.

2. The defendants are all corporations, none of which is incorporated in or has its principal place of business in the State of Illinois, and at all times relevant to the allegations contained herein were engaged in the business of designing, manufacturing and selling asbestos and/or asbestos-containing products and/or asbestos-insulated equipment (hereinafter referred to as "asbestos products"). Please refer to the attached Exhibit A for the state of incorporation and principal place of business of each defendant.
3. Jurisdiction is based on diversity of citizenship of the parties hereto under Title 28, United States Code, §1332.
4. The amount in controversy exceeds the sum of Seventy-Five Thousand Dollars, exclusive of interest and costs.
5. Venue is proper pursuant to Title 28, United States Code, §1391.

#### **GENERAL ALLEGATIONS**

6. Plaintiff during the course of his employment at various job sites, including those listed on the attached Exhibit B, was allegedly exposed to asbestos dust or fibers emanating from the asbestos products which were sold, manufactured, distributed, packaged, installed or otherwise placed into commerce by all defendants.
7. Plaintiff was ignorant of the dangerous nature of asbestos and of the nature of the risks incurred by workers working with or near said materials.
8. Plaintiff became aware of the asbestos-related condition and said condition was caused by defendants' wrongful conduct within the statute of limitations before the filing of this action.
9. As a direct and proximate result of the conduct of defendants, Plaintiff developed and has been diagnosed as having Asbestosis. See medical report at Exhibit C, attached hereto and incorporated herein by this reference.

10. Plaintiff suffered great pain, physical impairment, great mental pain and anguish, is liable for large sums of money for medical and hospital care, and suffered losses to his personal property and possessions.

**COUNT 1 - PRODUCTS LIABILITY - NEGLIGENCE**

11. Plaintiff brings this count for negligence against all defendants, less METROPOLITAN LIFE INSURANCE COMPANY, and incorporates by reference all general allegations.
12. It was reasonably foreseeable by defendants that Plaintiff and other workers would be working with or in the proximity of defendants' asbestos products.
13. Defendants had a duty to exercise reasonable care for the safety of Plaintiff and others who worked with or were allegedly exposed to the defendants' asbestos products.
14. Defendants knew or in the exercise of ordinary or reasonable care ought to have known that exposure to their asbestos products caused disease and/or death and that Plaintiff did not know that asbestos products were dangerous or harmful.
15. Notwithstanding the aforementioned duty, defendants, and each of them, were negligent by one or more of the following acts or omissions:
  - a) Failed to adequately warn Plaintiff or others of the health hazards of asbestos;
  - b) Failed to warn Plaintiff or others of the danger and harm of the asbestos after the products or equipment were installed at the premises;
  - c) Failed to investigate or test for the health effects of asbestos prior to distribution and sale;
  - d) Failed to instruct Plaintiff, his employers or others in the use of precautionary measures relating to asbestos-containing products and/or asbestos-insulated equipment; and/or
  - e) Manufactured, supplied, or installed unsafe asbestos-containing products or asbestos-insulated equipment.
16. As a direct and proximate result of the acts and omissions of the defendants above, plaintiff was injured as described above.

**COUNT 2 – CONSPIRACY**

17. This claim is brought against all defendants herein for civil conspiracy and plaintiff incorporates the general allegations above.
18. The civil conspiracy defendants and other unnamed coconspirators knowingly and willfully combined, agreed, and conspired with each other for the purpose of accomplishing one or more of the following unlawful purposes:
  - a) Suppressing information about the health hazards of asbestos, including medical and scientific data, from those persons who would be exposed to the asbestos from the products made and sold by the conspirators,
  - b) Affirmatively asserting, in a manner not warranted by the information possessed by the conspirators, claims that the conspirators knew were false, namely, that it was safe to work with and in close proximity to asbestos.
19. The conspirators in communications between each other and through participation in trade organizations and committees of such trade organizations ratified and adopted the unlawful purposes and conduct of the conspiracy.
20. One or more of the conspirators performed the following tortious acts in furtherance of the conspiracy:
  - a) Manufactured, sold, packaged or installed unreasonably dangerous asbestos products to which the Plaintiff was exposed,
  - b) Failed to warn about health hazards of asbestos, failed to investigate health hazards of asbestos or failed to instruct about precautionary measures required for protection;
21. The agreement of the conspirators and acts done in furtherance of the agreement were the proximate causes of the injuries set forth above.

**COUNT 3 - PREMISES LIABILITY**

22. Plaintiff brings this claim against the following premise defendants: Eli Lilly and Co., Marathon Oil Company, and Texaco, Inc.
23. During times at issue, Plaintiff was lawfully on the premises of the premise defendant.
24. As owner, premise defendant owed a duty to care to Plaintiff as an entrant.
25. Before Plaintiff worked at the premises, premise defendant knew or should have known about the

health hazards of asbestos and that persons such as plaintiff would be exposed to airborne asbestos fibers as a consequence of their work at the premises.

26. As the owner and manager of a place of employment, premise defendant owed a duty to Plaintiff to use ordinary care to provide a reasonably safe workplace and furnish safeguards or processes to render employment safe.
27. Premise defendant breached its duty of care and was negligent by one or more of the following acts or omissions:
  - a) Failure to adequately warn Plaintiff of the health hazards of asbestos;
  - b) Failure to warn plaintiff of the health hazards of installed asbestos products at the premises;
  - c) Failure to investigate or test the air or environment of the premises for asbestos;
  - d) Failure to take measures to control the release of asbestos fibers; and
  - e) Failure to direct and control work done on the premises by its employees and independent contractors to maintain a safe environment.
28. As a direct and proximate result of premise defendant's negligence, Plaintiff was exposed to asbestos fibers which caused the injuries described.

#### **COUNT 4 - NEGLIGENT HIRING**

29. Plaintiff repeats and re-alleges the count for premise liability.
30. Each premise defendant failed to use reasonable care in selecting and hiring contractors and independent contractors.
31. Plaintiff's injury arose from conduct involved in performing the work under the contract.
32. The premise defendant knew or should have known when it hired each contractor that the contractor was unfit to take due safety precautions and that they did not have the competence and knowledge to undertake the work in a safe manner.
33. The premise defendant knew or should have known that the contractors and independent contractors

could injure others, specifically Plaintiff.

34. The working conditions relative to the pervasive presence of airborne asbestos particles was the proximate cause of Plaintiff's injury.
35. The use of inherently dangerous asbestos products by the independent contractors required special precautions, of which premise defendant knew or should have known, and which were not met.
36. The negligent hiring of the contractors and subcontractors was a direct and proximate cause of plaintiff's injury.

**PUNITIVE DAMAGES**

37. Defendants acted maliciously, with willful and wanton disregard for the rights of Plaintiff for which plaintiff is entitled to recover punitive damages.

**PRAYER FOR RELIEF**

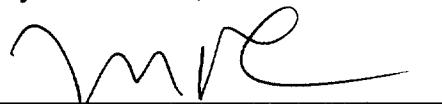
WHEREFORE, plaintiff prays for relief as follows:

- a) Judgement against defendants, jointly and severally, for compensatory and general damages.
- b) Such further legal and equitable relief as the Court orders to do justice in this case; costs and disbursements of this action.

**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by a jury of 6.

Dated this 28<sup>th</sup> day of December, 2000.



One of the Plaintiff's Attorneys

MICHAEL P. CASCINO  
CASCINO VAUGHAN LAW OFFICES, LTD.  
403 West North Avenue  
Chicago, Illinois 60610-1117  
312-944-0600  
312-944-1870 fax

**Exhibit A**  
**Defendants' Home States and Principal Places of Business**

A.C. and S., Inc.	Delaware	Pennsylvania
Airco, Inc./ The BOC Group	Delaware	New Jersey
A.P. Green Industries	Delaware	Missouri
C.E. Thurston and Sons	Delaware	Virginia
Coltec Industries Corp.	Pennsylvania	Virginia
Combustion Engineering, Inc.	Delaware	Massachusetts
C S R, Ltd.	Australia	Australia
Dana Corp.	Virginia	Ohio
Dresser Industries, Inc.	Delaware	Texas
Ericsson, Inc., as successor to Anaconda Wire & Cable Company	North Dakota	Wisconsin
Eli Lilly and Company	Indiana	Indiana
Empire Ace Insulation Mfg. Corp.	New York	New York
Ferodo America, Inc.	Delaware	Tennessee
Foster Wheeler Corporation, as Parent Corporation to Foster Wheeler Energy Corporation	New York	New Jersey
Foster Wheeler Energy Corp.	Delaware	New Jersey
The Flintkote Company	Delaware	California
GAF Corporation	Delaware	New Jersey
Garlock, Inc.	Ohio	Ohio
General Electric Company	New York	Connecticut
General Refractories Company	Pennsylvania	Pennsylvania
Georgia-Pacific Corporation	Georgia	Georgia
Harbison Walker Refractories	Delaware	Pennsylvania
Industrial Holdings Co.	New York	New York
I.U. North America, Inc.	Delaware	Pennsylvania
Lincoln Electric Merger Co.	Ohio	Ohio
Marathon Oil Company	Ohio	Texas
Maremont Corp.	Delaware	Indiana
Metropolitan Life Insurance Company	New York	New York
National Services Industries, Inc.	Delaware	Indiana
North American Refractories Company	Ohio	Ohio
Nosroc Corp.	Pennsylvania	Pennsylvania
Owens-Illinois Corporation	Delaware	Ohio

Pfizer, Inc.	Delaware	New York
Quigley Co., Inc.	New York	New York
Rapid American Corp.	Delaware	Pennsylvania
Rhone Poulence Ag. Co., f.k.a. Amchem Products, Inc.	New York	New Jersey
Shook & Fletcher	Delaware	Alabama
T&N LTD, f/k/a T&N plc	Delaware	Britain
Texaco, Inc.	Delaware	New York
Union Carbide Chemicals and Plastics Co., Inc.	New York	New Jersey
United States Mineral Products Company	New Jersey	New Jersey
W.R. Grace Company	Connecticut	Florida
Viacom, Inc. a successor to Westinghouse Electric Corp.	Delaware	New York

## Exhibit B

Last: Reinoehl

last

last

last

**ILO 1980 X-RAY CLASSIFICATION REPORT**200 LAKEWOOD BLVD  
MADISON WI 53704HENRY A. ANDERSON, M.D.  
OCCUPATIONAL AND ENVIRONMENTAL MEDICINE

608-241-1227

PATIENT'S NAME (LAST FIRST, MIDDLE INITIAL)

Reinoehl, Donald

D O B

8/2/1935

DATE OF READING

MONTH DAY YEAR  
**C 9 3 0 0 0**

PATIENT'S ADDRESS (NUMBER AND STREET) (CITY OR TOWN) (STATE) (ZIP CODE)

TYPE OF READING

A  P**1A. DATE OF X-RAY**MONTH / DAY / YEAR  
**9/6/2000****1B. FILM QUALITY** 2 3 U/RIf Not Grade 1  
Give Reason**1C. IS FILM COMPLETELY NEGATIVE?**YES NO 

Proceed to Section 2

**2A. ANY PARENCHYMAL ABNORMALITIES  
CONSISTENT WITH PNEUMOCONIOSIS?**YES  COMPLETE 2B and 2CNO 

Proceed to Section 3

**2B. SMALL OPACITIES**

a SHAPE/SIZE

PRIMARY      SECONDARY

p	s
q	t
r	u

b ZONES



## c PROFUSION

0/0/0	/-/0/1	0/0/1
X/1/1	1/1/2	1/2/1
2/2/2	2/2/3	2/3/2
3/3/3	3/3/3	3/3/+

SIZE  A  B  C

Proceed to Section 3

**3A. ANY PLEURAL ABNORMALITIES  
CONSISTENT WITH PNEUMOCONIOSIS?**YES 

COMPLETE 3B, 3C and 3D

NO 

Proceed to Section 4

**3B. PLEURAL THICKENING**

## a CIRCUMSCRIBED (plaque)

a DIAPHRAGM (plaque)

SITE  O  R  LSITE  O  RSITE  O  L

b COSTOPHRENIC ANGLE

SITE  O  R  L

IN PROFILE

I WIDTH

II EXTENT

FACE ON

III EXTENT

IN PROFILE

I WIDTH

II EXTENT

FACE ON

III EXTENT

## b DIFFUSE

SITE  O  RSITE  O  L

IN PROFILE

IN PROFILE

II EXTENT

II EXTENT

FACE ON

FACE ON

III EXTENT

III EXTENT

**3D. PLEURAL CALCIFICATION**SITE  O  R EXTENT

a DIAPHRAGM

0 1 2 3

b WALL

0 1 2 3

c OTHER SITES

0 1 2 3

SITE  O  L EXTENT

0 1 2 3

0 1 2 3

0 1 2 3

0 1 2 3

0 1 2 3

0 1 2 3

Proceed to Section 4

**4A. ANY OTHER ABNORMALITIES?**YES 

COMPLETE 4B and 4C

NO **4B. OTHER SYMBOLS (OBLIGATORY)** O  ax  bu  ca  cn  co  cp  cv  di  ef  em  es  fr  hi  ho  id  ih  kl  pi  px  rp  tbReport item which  
may be of present  
clinical significance  
in this section

(SPECIFY od )

OD

Date Personal Physician notified?

MONTH    DAY    YEAR

**4C. OTHER COMMENTS**YES  NO **PLAINTIFF'S  
EXHIBIT**

SEE PERSONAL PHYSICIAN BECAUSE OF COMMENTS IN SECTION 4C.

YES  NO

DONALD D. REINOEHL, individually v. A. C. AND S., INC., et al.

**Distribution List:**

A C AND S INC  
C/O C T CORPORATION SYSTEM  
208 S LASALLE ST STE 814  
CHICAGO IL 60603-1135

AIRCO, INC./THE BOC GROUP  
C/O CT CORPORATION SYSTEMS  
208 S. LASALLE STREET  
SUITE 814  
CHICAGO IL 60604-1135

A.P. GREEN INDUSTRIES  
CVCSC, INC.  
C/O DARCY ROPER  
P.O. BOX 950  
525 BROOK STREET  
ROCKY HILL, CT 06067

C.E. THURSTON AND SONS, INC.  
C/O H. VAUGHAN PRIVETT  
485 BROOKSIDE COURT  
NORFOLK VA 23502-2502

COLTEC INDUSTRIES CORP.  
C/O CT CORPORATION SYSTEMS  
ONE N CAPITAL AVE  
INDIANAPOLIS IN 46204

COMBUSTION ENGINEERING, INC.  
C/O THE CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON, DE 19801

C S R LTD  
MICHAEL P. CASEY, ESQ.  
LEWIS RICE & FINGERSH  
500 NORTH BROADWAY  
SUITE 2000  
ST. LOUIS MO 63102

DANA CORP.  
C/O CT CORPORATION SYSTEM  
208 S. LASALLE STREET  
SUITE 814  
CHICAGO IL 60604-1135

DRESSER INDUSTRIES  
C/O ILLINOIS SERVICE COMPANY  
700 S. 2<sup>ND</sup> STREET  
SPRINGFIELD IL 62704

ELI LILLY AND CO.  
GENERAL COUNSEL  
LILLY CORPORATE CENTER  
DROP CODE 1119  
INDIANAPOLIS IN 46285

EMPIRE ACE INSULATION MFG. CORP.  
C/O SECRETARY OF STATE - NY  
41 STATE STREET  
ALBANY, NY

ERICSSON, INC., AS SUCCESSOR TO ANACONDA STEEL & WIRE COMPANY  
C/O CT CORPORATION SYSTEMS  
314 EAST THAYER AVE  
BISMARCK, ND 58502-0400

FERODO AMERICA, INC.  
C/O THE CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

FOSTER-WHEELER CORPORATION, AS PARENT CORPORATION TO  
FOSTER WHEELER ENERGY CORP.  
C/O PRENTICE HALL CORP. SYSTEMS  
4845 JIMMY CARTER BLVD.  
NORCROSS GA 30093

FOSTER-WHEELER ENERGY CORP.  
C/O U.S. CORPORATION COMPANY  
1013 CENTRE ROAD  
WILMINGTON DE 1980

THE FLINTKOTE COMPANY  
C/O CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

GAF CORPORATION  
C/O PRENTICE HALL CORPORATION SYS  
1013 CENTER RD  
WILMINGTON DE 19805-1265

GARLOCK INC  
C/O C T CORPORATION SYSTEM  
208 S LASALLE ST STE 814  
CHICAGO IL 60604-1135

GENERAL ELECTRIC COMPANY  
C/O C T CORPORATION SYSTEM  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

GENERAL REFRACTORIES CO  
C/O C T CORPORATION SYSTEM  
1 N CAPITOL AVE STE 1000  
INDIANAPOLIS IN 46204-2279

GEORGIA-PACIFIC CORPORATION  
C/O C T CORPORATION SYSTEM  
208 S LASALLE ST STE 814  
CHICAGO IL 60604-1135

HARBISON WALKER REFRACTORIES  
CVCSC, INC.  
C/O CHRISTINE ASTIN  
P.O. BOX 950  
525 BROOK STREET  
ROCKY HILL, CT 06067

INDUSTRIAL HOLDINGS CO.  
C/O THE PRENTICE HALL CORP.  
80 STATE STREET  
ALBANY NY 12207

I.U. NORTH AMERICA, INC.  
C/O THE CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

LINCOLN ELECTRIC MERGER CO.  
C/O LEGAL COUNSEL  
22801 ST. CLAIRE AVE.  
CLEVELAND OH 44117

MARATHON OIL COMPANY  
5555 SAN FILIPE  
HOUSTON TX 77056

MAREMONT CORP.  
C/O THE CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

METROPOLITAN LIFE INSURANCE CO  
1 MADISON AVE  
NEW YORK NY 10010-3690

NORTH AMERICAN REFRACTORIES CO  
JOSEPH R. SCHAPER  
HEINTZMAN, WARREN, WISE & FORNELLA, P.C.  
THE 35<sup>TH</sup> FLOOR, GULF TOWER  
707 GRANT STREET  
PITTSBURGH, PA 15219-1913

NATIONAL SERVICE INDUSTRIES, INC.  
C/O THE CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

NOSROC, INC.  
C/O CT CORPORATION TRUST COMPANY  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

OWENS-ILLINOIS CORP.  
C/O CT CORPORATION SYSTEMS  
520 SW YAMHILL  
SUITE 800  
PORTLAND OR 97204

PFIZER, INC.  
C/O CT CORPORATION SYSTEMS  
1633 BROADWAY  
NEW YORK NY 10019

QUIGLEY CO., INC.  
C/O CT CORPORATION SYS  
208 S. LASALLE STREET  
CHICAGO IL 60604

RAPID-AMERICAN CORPORATION  
C/O PRENTICE HALL CORPORATION SYS  
380 S 5TH ST  
COLUMBUS OH 43215

RHONE POULENC AG., CO.  
C/O CT CORPORATION SYSTEMS  
1635 MARKET STREET  
PHILADELPHIA PA 19103

SHOOK & FLETCHER INSULATION CO.  
C/O LEGAL COUNSEL  
4625 VALLEYDALE ROAD  
BIRMINGHAM, AL 35242

T&N PLC AS SUCCESSOR TO TURNER & NEWALL PLC AND TURNER & NEWALL, LTD  
MANCHESTER INTERNATIONAL OFFICE CENTRE  
STYAL ROAD  
SUITE #15  
MANCHESTER ENGLAND M225TN

TEXACO, INC.  
GENERAL COUNSEL  
2000 WESTCHESTER AVE.  
WHITE PLAINS NY 10650

UNION CARBIDE CHEMICALS AND PLASTICS CO., INC.

C/O THE CORPORATION TRUST CO.  
1209 N. ORANGE STREET  
WILMINGTON DE 19801

UNITED STATES MINERAL PRODUCTS CO  
C/O LEGAL DEPARTMENT  
41 FURNACE STREET  
STANHOPE, NJ 07874

W R GRACE COMPANY  
C/O PRENTICE HALL CORPORATION SYS  
25 W MAIN ST  
MADISON WI 53703

VIACOM, INC. a successor to WESTINGHOUSE ELECTRIC CORPORATION  
1515 BROADWAY  
NEW YORK, NY 10036